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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231, on the date appearing below.

ELI LILLY AND COMPANY

By Rimda M. Dunbar

Date March 28, 2001

**PATENT APPLICATION**  
**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant(s) : Skatrud, et al. )  
Serial No. : 09/758,828 )  
Filed : January 11, 2001 ) Group Art Unit:  
For : Multiple Drug Resistance Gene atrD ) Unknown  
of *Aspergillus nidulans* ) Examiner:  
Docket No. : X-11766B ) Unknown

**Petition in Response to Notice of Omitted Item(s) in a Nonprovisional Application**

Assistant Commissioner for Patents

Washington, D. C. 20231

Sir:

The Notice of Omitted Item(s) in a Nonprovisional Application dated February 14, 2001, indicates that pages 16-28 of the specification of Application Serial No. 09/758,828 were not received by the USPTO on the filing date of January 11, 2001.

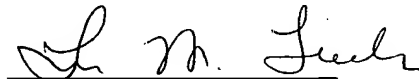
Applicants respectfully contend that pages 16-28 of the above-referenced patent application were indeed deposited with the nonprovisional application papers on January 11, 2001. As evidence of this, Applicants submit herewith a copy of the return receipt postcard date stamped by the USPTO affirming receipt of 31 pages (claims, abstract, and specification). Therefore, the complete application should be accorded a filing date of January 11, 2001.

As indicated in paragraph I of the Notice, Applicants hereby submit a copy of pages 16-28 of the specification as originally filed, a copy of the Notice of Omitted Item(s), and a fee of \$130.00 in accordance with 37 C.F.R. 1.17(i). Applicants respectfully submit that in view of the evidence presented, the \$130.00 petition fee is unnecessary, and should be

expeditiously refunded.

Please charge any fees or credit any overpayment in connection with this application which may be required by this or any related paper to Deposit Account No. 05-0840.

Respectfully submitted,



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Eli Lilly and Company  
Patent Division/TMT  
Lilly Corporate Center  
Indianapolis, Indiana 46285

27 March 2001

Attachments:

1. Copy of pages 16-28 of the specification as originally filed on January 11, 2001
2. Copy of Notice of Omitted Item(s)
3. Copy of returned postcard date stamped by the USPTO
4. Fee sheet